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Attorney Docket No. 9099-18

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Robert D. Black et al.

Serial No.: 10/779,907

Filed: February 17, 2004

For: IN VIVO FLUORESCENCE SENSORS, SYSTEMS, AND RELATED METHODS  
OPERATING IN CONJUNCTION WITH FLUORESCENT ANALYTES

Date: May 17, 2004

Office of Patent Legal Administration  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO ACCORD THE PROPER FILING DATE**

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of February 17, 2004 rather than February 18, 2004 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of February 17, 2004 being the correct filing date for the application, which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Receipt along with a copy of the USPS-Track & Confirm from the web page ([www.usps.com](http://www.usps.com)), showing "acceptance" or deposit date with the USPS at 5:44 p.m. on February 17, 2004; and
3. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of February 18, 2004 instead of the Express Mail date of February 17, 2004.

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of February 17, 2004 as the filing date pursuant to 37 CFR § 1.10.

In re: Robert D. Black et al.  
Serial No.: 10/779,907  
Filed: February 17, 2004  
Page 2

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

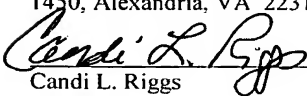


Elizabeth A. Stanek  
Attorney For Applicant  
Registration No. 48,568

**USPTO Customer No. 20792**  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401

**Certificate of Mailing under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 17, 2004.

  
Candi L. Riggs



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
ATTY DOCKET NO.: 9099-18  
DATE: February 17, 2004

**PATENT**

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER  
AND FEE TRANSMITTAL FORM (37 CFR § 1.53(b))**

Mail Stop PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 CFR § 1.53(b) is:

- ☒ a patent application  
☐ a Continuation ☐ a Divisional ☐ a Continuation-in-Part (CIP) Application of prior application no.: \_\_\_\_\_; filed \_\_\_\_\_, the disclosure of which is incorporated herein by reference in its entirety.  
☒ and claims the benefit of Provisional Application No. 60/448,349; filed February 19, 2003 and Provisional Application No. 60/471,706; filed May 19, 2003.

Inventor(s) or Application Identifier:

**Robert D. Black**  
**Natasha Bolick**

Entitled: ***IN VIVO* FLUORESCENCE SENSORS, SYSTEMS, AND RELATED METHODS  
OPERATING IN CONJUNCTION WITH FLUORESCENT ANALYTES**

Myers Bigel Sibley & Sajovec, P.A.  
P. O. Box 37428  
Raleigh, North Carolina 27627  
Telephone: (919) 854-1400  
Facsimile: (919) 854-1401  
Customer No. 20792

Enclosed are:

1. ☒ Application Transmittal Letter and Fee (*A duplicate is enclosed for fee processing*)
2. ☒ 71 pages of Specification (including 104 claims)
3. ☒ 17 sheets of Informal Drawings
4. ☒ Oath or Declaration
  - a. ☒ newly executed (*original or copy*)
  - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*) [Note Box 6 Below])
  - c. ☐ DELETION OF INVENTOR(S) (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

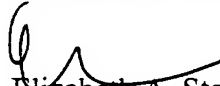
7. ☐ Microfiche Computer Program (*Appendix*)
8. ☒ Assignment papers (*cover sheet(s) and document(s)*)
9. ☐ Applicant claims small entity status. See 37 CFR § 1.27.
10. ☐ Information Disclosure Statement, PTO-1449, and \_\_\_\_\_ references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of
14. ☐ Sequence Listing/ Sequence Listing Diskette
  - a. ☐ computer readable copy
  - b. ☐ paper copy
  - c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Deletion of Inventors(s) (Signed statement attached deleting inventor(s) name in the prior application. See 37 CFR 1.63(d)(2) and 1.33(b).
18. ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form.
19. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			\$385.00	\$770.00
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- ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
- a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
  - b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

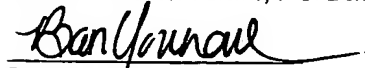
  
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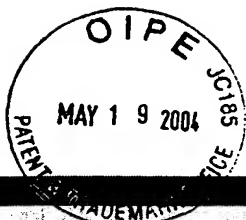
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# Mailstop Patent Application

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

EAS/bey

Date:

February 17, 2004

Doc. No.

9099-18

Serial No.

7ba

Inventor

Robert D. Black et al.



Kindly acknowledge receipt of the accompanying items listed below by placing your receiving stamp hereon and return mailing:

- ☒ Application Transmittal and:
- ☒ Specification pages 71
- ☒ No. of Claims 104
- ☒ Declaration & POA
- ☒ Assignment and Fee
- ☒ Small Entity Statement
- ☒ Internal Formal Drawings/ 17 sheets
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- ☐ Issue Fee
- ☐ Brief
- ☐ Appeal
- ☐ Submittal of Priority Doc.

031356 U.S. PTO  
10/779907



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Respectfully submitted,  
MYERS BIGEL SIBLEY & SAJOVEC, P.A.  
Attorneys for Applicant

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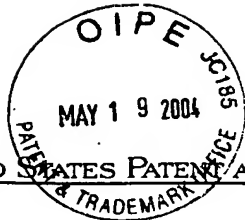


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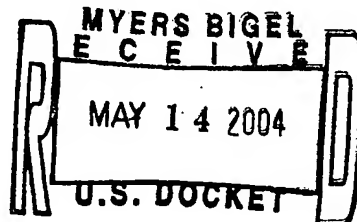


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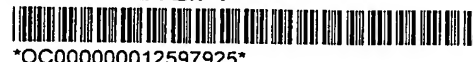
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## FILING RECEIPT



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## Applicant(s)

Robert D. Black, Chapel Hill, NC;  
 Natasha Bolick, Creedmoor, NC;

## Domestic Priority data as claimed by applicant

This appln claims benefit of 60/448,349 02/19/2003  
 and claims benefit of 60/471,706 05/19/2003

## Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2004

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: No

## Title

In vivo fluorescence sensors, systems, and related methods operating in conjunction with fluorescent analytes

05-14-04 A08:58 IN

**Preliminary Class**

435

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Title 37, Code of Federal Regulations, 5.11 & 5.15**

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